

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JONATHAN BERALL, M.D., M.P.H.,

Plaintiff,

v.

VERATHON INC.,

Defendant.

Case No. C21-944-RSM

ORDER GRANTING LEAVE FOR
SECOND SUMMARY JUDGMENT
MOTION AND REFERRING FOR
SECOND SETTLEMENT CONFERENCE

This matter comes before the Court on Defendant Verathon Inc.’s Motion for Leave to File Additional Summary Judgment Motion, Dkt. #478.

District courts have discretion to entertain a second motion for summary judgment. *See Hoffman v. Tonnemacher*, 593 F.3d 908, 910 (9th Cir. 2010). “[A]llowing a party to file a second motion for summary judgment is logical, and it fosters the ‘just, speedy, and inexpensive’ resolution of suits.” *Id.* at 911 (quoting Fed. R. Civ. P. 1). District courts retain discretion to “weed out frivolous or simply repetitive motions.” *Id.* “A successive motion for summary judgment is particularly appropriate on an expanded factual record.” *Id.* “Allowing a successive summary judgment motion potentially can save all concerned the far greater expenses of a trial.” *Id.* at 912.

The Court finds that Verathon has demonstrated good cause to permit the filing of a short, seven-page summary judgment motion under the unique circumstances of this case,

1 including changes to the facts based on the Court's ruling on claims construction, and because
2 there are many months remaining before trial. This is not a frivolous or repetitive motion.
3 Granting this relief has the potential to "save all concerned the far greater expenses of a trial."

4 The Court notes Verathon's simultaneous stipulation to denial of a portion of its
5 original summary judgment motion. *See* Dkt. #478 at 4. Whether or not Verathon has been
6 entirely diligent, the Court's primary focus now is the "just, speedy, and inexpensive"
7 resolution of this case, which has dragged on far too long. This case will therefore be referred a
8 second time to the Honorable Michelle L. Peterson to conduct a settlement conference.
9

10 Accordingly, the Court hereby FINDS and ORDERS:

- 11 1) Defendant Verathon Inc.'s Motion for Leave to File Additional Summary Judgment
12 Motion, Dkt. #478, is GRANTED. Verathon is permitted to file a seven-page
13 motion for summary judgment. The response brief will be limited to seven pages
14 and the reply limited to three pages.
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16 2) This case is re-referred to the Honorable Michelle Peterson. Judge Peterson's
17 courtroom deputy clerk, Tim Farrell, will contact the parties regarding scheduling
18 the settlement conference and any submissions required by Judge Peterson.
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20 3) The above summary judgment motion may be filed no later than seven (7) days after
21 settlement conference has concluded.
22

23 DATED this 6th day of December, 2022.

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25 RICARDO S. MARTINEZ
26 UNITED STATES DISTRICT JUDGE
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